



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carmel Marina Corporation

File: B-229696

Date: December 14, 1987

DIGEST

General Accounting Office will not consider a protest where it involves matters that are the subject of litigation before a court of competent jurisdiction unless the court requests a decision.

DECISION

Carmel Marina Corporation protests the issuance of the United States Army's invitation for bids (IFB) No. DAKF03-88-B-0005 for nonresidential refuse collection and disposal services at Fort Ord, California.

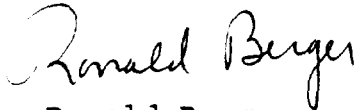
Carmel alleges that the Army has violated 42 U.S.C. § 6961 (1982) and an order of the United States District Court for the Northern District of California in Gary Parola and Monterey City Disposal Service, Inc. v. Casper Weinberger, et al., Case No. C-85-20303-WAI (Order dated September 12, 1986), which the protester contends require a sole-source award to it as the designated franchisee for refuse and collection services for the cities where Fort Ord is located. Carmel also alleges that the Army has failed to properly synopsize the procurement and to provide adequate bid preparation time.

On November 30, 1987, Carmel filed suit in the United States District Court for the Northern District of California seeking declaratory judgment and injunctive relief essentially on the same grounds raised in the protest. Carmel Marina Corporation v. Francis Carlucci, et al., Civil Action No. C87 20789 WAI. Under our Bid Protest Regulations, we will not consider a protest involving matters which are before a court of competent jurisdiction unless the court requests a decision. 4 C.F.R. § 21.9(a) (1987); N.W. Ayer, Inc., B-225632, Jan. 16, 1987, 87-1 CPD ¶ 68.

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There is no request in Carmel's complaint that the court ask for our decision or that the court enjoin contract award pending issuance of our decision and there is no indication in the record that the court is interested in our decision.

We therefore dismiss the protest.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Deputy Associate
General Counsel